

SEP 12 2018



September 6, 2018

Via US Mail Certified

Vance R. Anderson
Lynn Enterprises, Inc.
734 B East Grant Lane Road
Tracy, CA 95304

Email: vance@lynnenterprises.com

Vance R. Anderson
Lynn Enterprises Agent for Service
617 Rubenish Court
Ripon, CA 95366

Re: 60-Day Notice of Intent to Sue Under the Federal Clean Water Act ("Clean Water Act")

To: Officers, Directors, Operations, Property Owners and/or Facility Managers of Lynn Enterprises:

I am writing on behalf of Eden Environmental Citizens Group ("EDEN") to give legal notice that EDEN intends to file a civil action against Lynn Enterprises ("Discharger") for violations of the Federal Clean Water Act ("CWA") or "Act" 33 U.S.C. § 1251 at

2151 Solvite Street RA3-319 Concord, CA 94520
Telephone 925-732-0908 Email: eden@edenccg.com

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(PRO), Industrial Service Supply (IND), Navigation (NAV), Water Contact Recreation (REC-1), Non-contact Water Recreation (REC-2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD), Migration (MIGR), and Spawning, Reproduction, and/or Early Development (SPWN).

A water body is impaired pursuant to section 303(d) of the Clean Water Act, 33 U.S.C.

§ 1311(k), when its Beneficial Uses are not being achieved due to the presence of one or more pollutants. The San Joaquin River is impaired for Instream, Salinity, Total Dissolved Solids (TDS), Electrical Conductivity (EC), Barium, Organophosphorus (OP) Pesticides (Diazinon, Chlorpyrifos), Oxygen-Demanding Substances (BOD/Algae, Ammonia, Organic Nitrogen), Organochlorine "Legacy" Pesticides (DDT, Dieldrin, Dieldrin, Toxaphene, etc.), Mercury, Pathogen-Indicator Organisms, E. coli, Fecal Coliforms, and Toxicity of Unknown Cause.

Polluted storm water and non-storm water discharges from industrial facilities, such as the Facility, contribute to the further degradation of already impaired surface waters, and harm aquatic dependent wildlife.

III. VIOLATIONS OF THE CLEAN WATER ACT AND GENERAL PERMIT

A. Untimely Application For NPDES Coverage

The CWA prohibits storm water discharges without a permit. 33 U.S.C. § 1342; 40 C.F.R. § 122.26. The General Permit requires operators of facilities subject to coverage under the National Pollutant Discharge Elimination System (NPDES) storm water permit, as these operators discharge storm water associated with specific industrial activities identified by both industrial activity and SIC (Standard Industrial Classification) codes in Attachment A of the Permit.

The Discharger's primary industrial activity is listed on Attachment A as an industrial activity subject to NPDES coverage. Thus, the facility was required to apply for coverage under the Permit in order to commence business operations, pursuant to Section I.Q of the Permit.

sup. that EDEN believes are occurring at the Lynn Enterprises facility located at 734-B East Grant Lane Road in Tracy, California ("the Facility" or "the site").

EDEN is an environmental citizens' group established under the laws of the State of California to protect, enhance, and assist in the restoration of all rivers, streams, wetlands, vernal pools, and tributaries of California, for the benefit of its ecosystems and communities.

CWA section 505(b) requires that sixty (60) days prior to the initiation of a civil action under CWA section 505(a), a citizen must give notice of intent to file suit. 33 U.S.C. § 1365(b). Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA"), and the State in which the violations occur.

As required by CWA section 505(b), this Notice of Violation and Intent to File Suit provides notice to the Discharger of the violations which have occurred and continue to occur at the Facility. After the expiration of sixty (60) days from the date of this Notice of Violation and Intent to File Suit, EDEN intends to file suit in federal court against the Discharger under CWA section 505(a) for the violations described more fully below.

1. THE SPECIFIC STANDARD, LIMITATION, OR ORDER VIOLATED

EDEN's investigation of the Facility has uncovered significant, ongoing, and continuous violations of the CWA and the General Industrial Storm Water Permit issued by the State of California (NPDES General Permit No. CAS000001 [State Water Resources Control Board ("SWRCB") Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ ("1997 Permit") and by Order No. 2014-0057-DWQ ("2015 Permit") (collectively, the "General Permit").

Information available to EDEN, including documents obtained from California EPA's online Storm Water Multiple Application and Reporting Tracking System ("SMARTS") indicates that on or around December 4, 2015, the Discharger submitted an NOI to be authorized to discharge storm water from the Facility under the 2015 Permit. The SWRCB approved the NOI, and the Discharger was assigned Waste Discharge Identification ("WQID") number 353902839.

As more fully described in Section III, below, EDEN alleges that in its operations of the Facility, the Discharger has committed ongoing violations of the substantive and procedural requirements of the Federal Clean Water Act, California Water Code § 13177, the

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According to California Secretary of State records, Lynn Enterprises commenced its operations at the site on or before December 19, 2008. The Discharger did not in fact apply for NPDES coverage until December 4, 2015. Thus, between at least December 19, 2008 and December 4, 2015, the Facility operated without NPDES Permit coverage. During that time, the Facility did not comply with any of the terms of the Permit, including implementing Best Management Practices, collecting and analyzing storm water runoff for pollution parameters, preparing and implementing a Storm Water Pollution Prevention Plan, or filing Annual Reports.

Permit noncompliance constitutes a violation of the Clean Water Act and the Water Code, is grounds for enforcement action against the Facility and is further a violation of Sections I. and II.B.1.h. of the General Permit.

B. Failure to Develop, Implement and/or Revise an Adequate Monitoring and Reporting Program Pursuant to the General Permit

Section XI of the General Permit requires Dischargers to develop and implement a storm water monitoring and reporting program ("MARP") prior to conducting industrial activities. Dischargers have an ongoing obligation to revise the MARP as necessary to ensure compliance with the General Permit.

The objective of the MARP is to detect and measure the concentrations of pollutants in a facility's discharges, and to ensure compliance with the General Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations. An adequate MARP ensures that BMPs are effectively reducing and/or eliminating pollutants at the Facility, and it must be evaluated and revised whenever appropriate to ensure compliance with the General Permit.

1. Failure to Conduct Visual Observations

Section XI(A) of the General Permit requires all Dischargers to conduct visual observations at least once each month, and sampling observations at the same time sampling occurs at a discharge location.

Observations must document the presence of any floating and suspended material, oil and grease, discolorations, turbidity, color and the source of any pollutants. Dischargers must document and maintain records of observations, observation dates, locations observed, and responses taken to reduce or prevent pollutants in storm water discharges.

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General Permit, the Regional Water Board Basic Plan, the California Toxic Rule (CTR) 40 C.F.R. § 131.38, and California Code of Regulations, Title 22, § 64431.

II. THE LOCATION OF THE ALLEGED VIOLATIONS

A. The Facility

The location of the point sources from which the pollutants identified in this Notice are discharged in violation of the CWA is Lynn Enterprises' permanent facility address of 724 B East Grant Lane Road in Tracy, California.

Lynn Enterprises is a metal fabrication facility. Facility operations are covered under Standard Industrial Classification Code (SIC) 3444—Sheet Metal Work.

Based on the EPA's Industrial Storm Water Fact Sheet for Sector AA—Fabricated Metal Products, polluted discharges from operations at the Facility contain galvanized metals such as zinc, nickel and chromium; heavy metals, such as iron, copper and aluminum; toxic metals, such as lead and cadmium; total suspended solids ("TSS"), chemical oxygen demand (COD); nitrites and nitrites; phosphates; chlorinated solvents; and oil and grease ("O&G"). Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and/or developmental or reproductive harm.

B. The Affected Receiving Waters

The Facility discharges into a municipal storm drain system, which then discharges to the Middle River, and then to the San Joaquin River, part of the Sacramento-San Joaquin Delta Watershed ("Receiving Water").

The San Joaquin River is a water of the United States. The CWA requires that water bodies such as the San Joaquin River must water quality objectives that protect specific "beneficial uses." The Central Valley Regional Water Board has issued its Water Quality Control Plan for the Sacramento and San Joaquin River Basins ("Basic Plan") to delineate these water quality objectives.

The Basic Plan identifies the "Beneficial Uses" of water bodies in the region. The Beneficial Uses for the Receiving Waters downstream of the Facility include: Municipal and Domestic Supply (MUN), Agricultural Supply (AGR), Industrial Process Supply

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EDEN alleges that between July 1, 2015, and the present, the Discharger has failed to conduct monthly and sampling visual observations pursuant to Section XI(A) of the General Permit.

2. Failure to Collect the Required Number of Storm Water Samples

In addition, EDEN alleges that the Discharger has failed to provide the Regional Water Board with the minimum number of annual documented results of facility run-off sampling as required under Sections XLB.2 and XLB.11.a of Order No. 2014-0057-DWQ, in violation of the General Permit and the CWA.

Section XLB.2 of the General Permit requires that all Dischargers collect and analyze storm water samples from two Qualifying Storm Events ("QSEs") within the first half of each reporting year (July 1 to December 31), and two (2) QSEs within the second half of each reporting year (January 1 to June 30).

Section XLC.6.b provides that if samples are not collected pursuant to the General Permit, an explanation must be included in the Annual Report.

As of the date of this Notice, the Discharger has failed to upload into the SMARTS database system:

- Two storm water sample analyses for the time period July 1, 2015, through December 31, 2015. Qualified Storm Events occurred in the vicinity of the facility on at least the following relevant dates: 11/2/15, 11/8/15, 11/15/15, 12/3/15, 12/10/15, 12/17/15 and 12/24/15;
- Two storm water sample analyses for the time period January 1, 2016, through June 30, 2016. Qualified Storm Events occurred in the vicinity of the facility on at least the following relevant dates: 1/4/16, 1/10/16, 1/15/16, 1/16/16, 1/22/16, 1/30/16, 2/10/16, 3/6/16, 3/11/16, 4/9/16, 4/22/16, 4/28/16 and 5/21/16;
- Two storm water sample analyses for the time period July 1, 2016, through December 31, 2016. Qualified Storm Events occurred in the vicinity of the facility on at least the following relevant dates: 10/14/16, 10/16/16, 10/25/16, 10/30/16, 11/7/16, 11/19/16, 11/23/16, 11/26/16, 12/8/16, 12/10/16, 12/15/16 and 12/23/16.

- d. Two storm water sample analyses for the time period January 1, 2017, through June 30, 2017. Qualified Storm Events occurred in the vicinity of the facility on at least the following relevant dates: 1/2/17, 1/7/17, 1/10/17, 1/19/17, 2/2/17, 2/6/17, 2/17/17, 2/20/17, 3/5/17, 3/21/17, 3/24/17, 4/7/17, 4/13/17, 4/16/17 and 4/22/17, and
- e. Two storm water sample analyses for the time period July 1, 2017, through December 31, 2017. Qualified Storm Events occurred in the vicinity of the facility on the following relevant dates: 10/19/17, 11/8/17, 11/15/17, and 11/27/17.

3. Failure to Collect Storm Water Run-Off Samples during Qualified Storm Events

Pursuant to Section XI.B.1 of the General Permit, a Qualified Storm Event (QSE) is a precipitation event that both produces a discharge for at least one drainage area and is preceded by 48 hours with no discharge from any drainage area.

The Discharger's sample collected below was not in compliance with the General Permit because it was not collected during a Qualified Storm Event as defined by the General Permit:

Sample Date	QSE Info
3/22/18	Not a valid QSE - third consecutive day of rainfall

4. Failure to Deliver Samples to the Laboratory within 48 Hours of Collection

Pursuant to Attachment M, Section 2 of the General Permit, Dischargers are to deliver storm water run-off samples to a qualified Laboratory within 48 hours of the physical sampling. The Discharger's samples listed below were not delivered to the Facility's Laboratory in that time frame.

Sample Date	Time
3/22/18	11:30 a.m.

Sample Date/Time	Laboratory Received Sample
3/22/18 9:30 a.m.	3/29/18 1:05 p.m.
4/16/18 11:30 a.m.	4/18/18 1:05 p.m.

5. Failure to Upload Storm Water Sample Analyses within 30 Days

Section XLB.11.a of the General Permit requires Dischargers to submit all sampling and analytical results for all individual or Qualified Combined Samples via SMARTS within 30 days of obtaining all results for each sampling event.

The Discharger failed to upload into SMARTS the following sampling and analytical results pursuant to Section XLB.11.a of the General Permit:

Sample Date	Date of Laboratory Report	Date Uploaded into SMARTS
3/22/18	4/16/18	6/13/18
4/16/18	5/2/18	6/13/18

C. Falsification of Annual Reports Submitted to the Regional Water Board

Section XXII of the General Permit provides as follows:

1. Certification

Any person signing, certifying, and submitting documents under Section XXIX above shall make the following certification:

"I certify, under penalty of law that this document and all Attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, to the best of my knowledge and belief, the information submitted is, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Further, Section XXII.N of the General Permit provides as follows:

N. Penalties for Falsification of Reports

Class Water Act section 309(x)(4) provides that any person that knowingly makes any false material statement, representation, or certification in any report or other document submitted or required to be submitted under this General Permit, including reports of compliance or noncompliance shall upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years or by both.

On June 21, 2016 and July 8, 2017, the Discharger submitted its Annual Reports for the Fiscal Years 2015-16 and 2016-17, respectively. These Reports were signed under penalty of law by Yvonne Anderson. Mr. Anderson is the currently designated Legally Responsible Person ("LRP") for the Discharger, and is also the facility owner.

Both the FY 2015-16 and 2016-17 Annual Reports included Attachment 1 as an explanation for why the Discharger failed to sample the required number of Qualifying Storm Events during the reporting years for all discharge locations, in accordance with Section XI.B. Mr. Anderson certified in both of the reports, under penalty of perjury, that the required number of samples for each of the reporting periods were not collected by the Discharger because there was "not enough run off during operating hours for sampling."

The Facility SWPPP lists the Facility's normal operating hours as 6:00 a.m. to 10:30 p.m. Monday through Friday, and 8:00 a.m. to 12:00 p.m. on weekends. Thus, the facility essentially operates every day of the week.

Records from the National Oceanic and Atmospheric Administration (NOAA) website/database confirm that during the fiscal years 2015-16 and 2016-17, there were sufficient Qualified Storm Events (QSEs) occurring near the Facility during or within 12 hours of the start of regular business hours to allow the Discharger to collect the requisite number of samples, as delineated in B.2, above.

Based on the foregoing, it is clear that Mr. Anderson made false statements in the Facility's 2015-16 and 2016-17 Annual Reports when he indicated that there were insufficient QSEs during the reporting years to allow the Facility to collect storm water samples.

D. Failure to File Timely Annual Reports

The Discharger has failed to comply with Section XVI.A of the General Permit, which provides as follows: "The Discharger shall certify and submit via SMARTS an Annual Report no later than July 15th following each reporting year using the standardized format and checklist in SMARTS."

The Discharger's Annual Report for the reporting year 2017-18 was due on or before July 15, 2018. However, to date, the Discharger has failed to file its Annual Report for the reporting year 2017-18.

E. Deficient BMP Implementation

Sections I.C, V.A and X.C.1 b of the General Permit require Dischargers to identify and implement minimum and advanced Best Management Practices ("BMPs") that comply with the Best Available Technology ("BAT") and Best Conventional Pollutant Control Technology ("BCT") requirements of the General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice, considering technological availability and economic practicability and achievability.

EDEN alleges that the Discharger has been conducting industrial activities at the site without adequate BMPs to prevent resulting non-storm water discharges. Non-storm water discharges resulting from these activities are not from sources that are listed among the authorized non-storm water discharges in the General Permit, and thus are always prohibited.

The Discharger's failure to develop and/or implement adequate BMPs and pollution controls to meet BAT and BCT at the Facility violates and will continue to violate the CWA and the Industrial General Permit each and every day the Facility discharges storm water without meeting BAT and BCT.

F. Discharges in Violation of the General Permit

Except as authorized by Special Conditions of the General Permit, Discharge Prohibition II(B) prohibits permittees from discharging materials other than storm water (non-storm water discharges) either directly or indirectly to waters of the United States. Unauthorized non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.

Information available to EDEN (including its review of publicly available storm water data, and the Facility's EPA and Basin Plan Benchmark exceedances noted herein) indicates that unauthorized non-storm water discharges occur at the Facility due to inadequate BMP development and/or implementation necessary to prevent these discharges.

EDEN alleges that the Discharger has discharged storm water containing excessive levels of pollutants from the Facility to its Receiving Waters during at least every significant local rain event over 0.1 inches in the last five (5) years.

EDEN hereby puts the Discharger on notice that each time the Facility discharges prohibited non-storm water in violation of Discharge Prohibition II(B) of the General Permit is a separate and distinct violation of the General Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a).

1. Discharges in Excess of Technology-Based Effluent Limitations

The Industrial General Permit includes technology-based effluent limitations, which prohibit the discharge of pollutants from the Facility in concentrations above the level commensurate with the application of best available technology economically achievable ("BAT") for toxic pollutants and best conventional pollutant control technology ("BCT") for conventional pollutants. (General Permit, Section X.II.)

The EPA has published Benchmark values set at the maximum pollutant concentration levels present if an industrial facility is employing BAT and BCT, as listed in Table 2 of the General Permit. The General Permit includes "Numeric Action Levels" ("NALs") derived from these Benchmark values; however, the NALs do not represent technology-based criteria relevant to

determining whether an industrial facility has implemented BMPs that achieve BAT/BCT. (General Permit, Section I.M. (Finding 67).)

The Discharger's exceedance of Benchmark values over the last three (3) years, identified in the table listed below, indicate that it has failed and is failing to employ measures that constitute BAT and BCT, in violation of the requirements of the Industrial General Permit. EDEN alleges and notifies the Discharger that its storm water discharges from the Facility have consistently contained and continue to contain levels of pollutants that exceed Benchmark values as listed below.

These allegations are based on the Facility's self-reported data submitted to the Regional Water Board. Self-monitoring reports under the Permit are deemed "conclusive evidence of an exceedance of a permit limitation." *Storrs Club v. Union Oil*, 813 F.2d 1486, 1492 (9th Cir. 1988).

The Discharger's ongoing discharges of storm water containing levels of pollutants above EPA Benchmark values and BAT- and BCT-based levels of control also demonstrates that it has not developed and implemented sufficient Best Management Practices ("BMPs") at the Facility. EPA Benchmarks are relevant to the inquiry as to whether a facility has implemented BMPs. [Cal. Sportfishing Pres. Alliance v. River City Waste Recyclers, LLC (C.D. Cal. 2014) 205 F.Supp.3d 1128; *Boysen v. Kramer Metals, Inc.* (C.D. Cal. 2009) 619 F.Supp.2d 914, 925; *Waterkeepers Northern California v. AG Industrial Mfg., Inc.* (9th Cir. 2004) 375 F.3d 913, 919 (concentration levels in excess of EPA benchmarks are evidence supporting the citizens plaintiffs' contention that defendant did not have appropriate BMPs to achieve BAT/BCT).]

The Discharger's failure to develop and/or implement adequate BMPs and pollution controls to meet BAT and BCT at the Facility violates and will continue to violate the CWA and the Industrial General Permit each and every day the Facility discharges storm water without meeting BAT and BCT.

2. Discharges in Excess of Respective Water Limitations

In addition to employing technology based effluent limitations, the Industrial General

Permit requires dischargers to comply with Receiving Water Limitations. Receiving Water Limitation found in Section VI(B) of the General Permit prohibits storm water discharges and authorized non-storm water discharges to surface water that adversely impact human health or the environment.

Discharges that contain pollutants in concentrations that exceed levels known to adversely impact aquatic species and the environment also constitute violations of the General Permit Receiving Water Limitation.

Applicable Water Quality Standards ("WQS") are set forth in the California Toxicity Rule ("CTR") and the Regional Basin Plan. Exceedance of WQS are violations of the Industrial General Permit, the CTR, and the Basin Plan. Industrial storm water discharges must strictly comply with WQS, including those criteria listed in the applicable Basin Plan. (See *Department of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).)

The Basin Plan establishes WQS for the San Joaquin River and its tributaries, including but not limited to the following:

- Waters shall not contain substances in concentrations that result in the deposition of material that causes nuisance or adversely affect beneficial uses.
- Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.
- Waters shall be free of changes in turbidity that cause nuisance or adversely affect beneficial uses.
- All waters shall be maintained free of toxic substances in concentrations that are lethal to or that produce other detrimental responses in aquatic organisms.
- Surface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use.

Information available to EDEN indicates that the Facility's storm water discharges

contain elevated concentrations of specific pollutants, as listed below. These pollutants discharges can be acutely toxic and/or have sub-lethal impacts on the avian and aquatic wildlife in the Receiving Waters. Discharges of elevated concentrations of pollutants in the storm water from the Facility also adversely impact human health. These harmful discharges from the Facility are violations of the General Permit Receiving Water Limitations.

Further, EDEN puts the Discharger on notice that the Receiving Water Limitations are independent requirements that must be complied with, and that carrying out the process triggered by exceedance of the NALs listed at Table 2 of the General Permit does not amount to compliance with the Receiving Water Limitations. The NALs do not represent water quality-based criteria relevant to determining whether an industrial facility has caused or contributed to an exceedance of a WQS, or whether it is causing adverse impacts to human health or the environment.

Section XX.B. of the General Permit provides that when a facility's industrial storm water discharges and/or authorized NSWDs are determined to contain pollutants that are in violation of Receiving Water Limitations contained in Section VI, the Discharger must conduct a facility evaluation to identify pollutant source(s) within the facility that are associated with industrial activity and whether the BMPs described in the SWPPP have been properly implemented, assess its current SWPPP and certify via SMARTS any additional BMPs identified which are necessary in order to meet the Receiving Water Limitations.

EDEN alleges that from at least March 22, 2015, to the present, the Discharger has been in violation of the Receiving Water Limitations provision of Section VI of the General Permit as evidenced by its exceedance of the applicable Water Quality Standards set forth in the Regional Basin Plan, indicated below.

Further, the Discharger has failed to comply with Section XX.B of the General Permit. Failure to comply with the additional Water Quality-Based Corrective Action requirements listed in Section XX.B is an additional violation of the General Permit.

The following discharges of pollutants from the Facility have violated Discharge Prohibitions and Receiving Water Limitations of the General Permit and are evidence of ongoing violations of Effluent Limitations:

Sample Collection Date	Drain #	Parameter	Sample Analysis Result (mg/L)	EPA Benchmark NAL average/Instantaneous Value (mg/L)	Basin Plan/ TSS-13 CCR NAL value (mg/L)
3/22/15	1	Aluminum	26.0	0.75	1.0
3/22/15	2	Aluminum	2.33	0.75	1.0
3/22/15	3	Aluminum	2.38	0.75	1.0
3/22/15	4	Aluminum	5.88	0.75	1.0
3/22/15	1	Iron	30.5	1.0	0.3
3/22/15	2	Iron	3.98	1.0	0.3
3/22/15	3	Iron	3.20	1.0	0.3
3/22/15	4	Iron	6.38	1.0	0.3
3/22/15	1	Zinc	2.12	0.26	0.1
3/22/15	2	Zinc	.292	0.26	0.1
3/22/15	3	Zinc	.291	0.26	0.1
3/22/15	4	Zinc	2.67	0.26	0.1
3/22/15	1	TSS	1220	100/400	n/a
3/22/15	2	TSS	169	100/400	n/a
3/22/15	4	TSS	140	100/400	n/a
4/16/15	1	Aluminum	4.24	0.75	1.0
4/16/15	2	Aluminum	3.92	0.75	1.0
4/16/15	3	Aluminum	8.93	0.75	1.0
4/16/15	4	Aluminum	6.06	0.75	1.0
4/16/15	1	Iron	5.89	1.0	0.3
4/16/15	2	Iron	8.00	1.0	0.3
4/16/15	3	Iron	11.0	1.0	0.3

Sample Collection Date	Drain #	Parameter	Sample Analysis Result (mg/L)	EPA Benchmark NAL average/Instantaneous Value (mg/L)	Basin Plan/ TSS-13 CCR NAL value (mg/L)
4/16/15	4	Iron	9.04	1.0	0.3
4/16/15	1	Zinc	.394	0.26	0.1
4/16/15	2	Zinc	.768	0.26	0.1
4/16/15	3	Zinc	.655	0.26	0.1
4/16/15	4	Zinc	3.78	0.26	0.1
4/16/15	1	TSS	231	100/400	n/a
4/16/15	2	TSS	152	100/400	n/a
4/16/15	3	TSS	260	100/400	n/a
4/16/15	4	TSS	252	100/400	n/a
4/16/15	4	pH	5.0 EU	<6, >9	<6.5, >8.5
2017-18 Averages		Aluminum	7.71	.75	1.0
		Iron	9.77	1.0	.30
		Zinc	1.40	.26	.10
		TSS	205.08	100/400	n/a

G. Failure to Comply with Facility SWPPP

Section 6.B of the Facility SWPPP (Sampling and Analysis) indicates that the Facility will collect and analyze storm water samples from two qualified storm events within the first half of each reporting year (July 1 to December 31) and two QSEs within the second half of each reporting year (January 1 to June 30).

As detailed above, the Facility missed all the QSE samples for the time periods July 1, 2015 through December 31, 2017.

The Discharger may have had other violations that can only be fully identified and documented once discovery and investigation have been completed. Hence, to the extent possible, EDEN includes such violations in this Notice and reserves the right to amend this Notice, if necessary, to include such further violations in future legal proceedings.

The violations discussed herein are derived from eye witness reports and records publicly available. These violations are continuing.

IV. THE PERSON OR PERSONS RESPONSIBLE FOR THE VIOLATIONS

The entities responsible for the alleged violations are Lynx Enterprises, Inc., Vance Anderson, and all employees of the Discharger responsible for compliance with the CWA.

V. THE DATE, DATES, OR REASONABLE RANGE OF DATES OF THE VIOLATIONS

The range of dates covered by this 60-day Notice is from at least July 1, 2015, to the date of this Notice. EDEN may from time to time update this Notice to include all violations which may occur after the range of dates covered by this Notice. Some of the violations are continuous in nature; therefore, each day constitutes a violation.

VI. CONTACT INFORMATION

The entity giving this 60-day Notice is Eden Environmental Cleaners ("EDEN").

Alden Sanchez
EDEN ENVIRONMENTAL CLEANERS GROUP
2151 Balboa Street #A2-319
Oakland, CA 94612
Telephone: (925) 733-0960

Email: Edenenvcleaners@gmail.com (e-mailed correspondence is preferred)
www.edenenvcleaners.com

EDEN has retained counsel in this matter as follows:

CRAIG A. BRANDT
Attorney at Law
3154 James Avenue
Oakland, CA, 94618
Telephone: (510) 601-1309
Email: craigabrandt@att.net

To ensure proper response to this Notice, all communications should be addressed to EDEN's legal counsel, Mr. Craig A. Brandt.

VII. RELIEF SOUGHT FOR VIOLATIONS OF THE CLEAN WATER ACT

As discussed herein, the Facility's discharge of pollutants degrades water quality and harms aquatic life in the Receiving Waters. Members of EDEN live, work, and/or recreate near the Receiving Waters. For example, EDEN members use and enjoy the Receiving Waters for fishing, boating, swimming, hiking, biking, bird watching, picnicking, viewing wildlife, and/or engaging in scientific study. The unlawful discharge of pollutants from the Facility impairs each of these uses.

Further, the Facility's discharge of polluted storm water and non-storm water are ongoing and continuous. As a result, the interests of EDEN's members have been, are being, and will continue to be adversely affected by the failure of the Discharger to comply with the General Permit and the Clean Water Act.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including individuals, corporations,

or partnerships for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (5), §1362(5).

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. § 19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five (5) years prior to the date of the Notice Letter. These provisions of law authorize civil penalties of \$37,500.00 per day per violation for all Clean Water Act violations after January 12, 2009, and \$51,570.00 per day per violation for violations that occurred after November 2, 2015.

In addition to civil penalties, EDEN will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. § 1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), EDEN will seek to recover its litigation costs, including attorneys' and experts' fees.

VIII. CONCLUSION

The CWA specifically provides a 60-day notice period to promote resolution of disputes. EDEN encourages the Discharger or its counsel to contact EDEN's counsel within 20 days of receipt of this Notice to initiate a discussion regarding the violations detailed herein.

During the 60-day notice period, EDEN is willing to discuss effective remedies for the violations; however, if the Discharger wishes to pursue such discussions in the absence of litigation, it is suggested those discussions be initiated soon so that they may be completed before the end of the 60-day notice period. EDEN reserves the right to file a lawsuit if discussions are continuing when the notice period ends.

Very truly yours,

AIDEN SANCHEZ
Eden Environmental Citizen's Group

Copies to:

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